

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
E. RÉMY MARTIN & CO,	:	
	:	
	:	
Plaintiff,	:	<b><u>ORDER GRANTING MOTION</u></b>
	:	<b><u>TO QUASH</u></b>
-against-	:	
	:	21 Civ. 6838 (AKH)
SIRE SPIRITS LLC, VETROELITE INC., and	:	
VETROELITE S.P.A.,	:	
	:	
Defendants.	:	
-----	X	

ALVIN K. HELLERSTEIN, U.S.D.J.:

Defendant Sire Spirits LLC moves to quash two subpoenas duces tecum directed to nonparty witness and former Sire employee, Mitchell Green, and his counsel, Duane Morris LLP. (ECF 126.) These subpoenas are improper and contravene the clear instructions given to the parties at the initial pre-trial conference held immediately after the June 13, 2022 *Markman* Hearing and summarized in my order dated the same day (ECF No. 115). I stated that “rather than wasting time and propounding interrogatories and Rule 34 requests and hearing objections and the like, . . . each party [shall] make a full production” by September 16. June 13, 2022 Hearing Tr., ECF No. 118, at 17:4–7, 18:16–17. I further stated that I did not believe the parties needed “third-party discovery at the beginning.” *Id.* at 19:14–15. Thus, I ordered the parties to complete productions by September 16, 2022, accompanied by representations from “senior partners for each party . . . that production is full for all issues of the case, except for specific documents withheld and identified in a privilege log conforming to Local Rule 26.2.” (ECF No.115.) In addition, the order provides that depositions will begin October 21, 2022, with the first two depositions being Plaintiff’s deposition of Sire principal Curtis Jackson III and Defendants’ deposition of Plaintiff’s bottle designer, Sebastian Servaire, and four more depositions to follow of party or nonparty witnesses, identified by the parties. (*Id.*) These six

depositions are to be completed between October 21, 2022 and January 27, 2023, with a status conference to follow on February 1, 2023, at 4:00 p.m., to identify further pretrial proceedings, including further depositions necessary and appropriate to the case. (*Id.*)

Plaintiff's subpoenas contravene my order. Plaintiff noticed a deposition for Mitchell Green to take place on September 21, 2022, a month prior to the date set forth in my order for the beginning of depositions. Green is neither Sire's principal nor Defendant's bottle designer. Plaintiff also issued a subpoena to Morris Duane LLP for the production of documents that are also in the control and custody of Sire and anticipated, subject to claims of privilege, to be produced by Sire by September 16, 2022. My order does not provide for production requests on nonparties prior to that date and, although I did not expressly prohibit such a request, the subpoena nevertheless contravenes the spirit of my instructions and my intent to create an orderly and efficient discovery plan. Accordingly, the motion is granted.

The parties shall, consistent with my June 13, 2022 order, make productions by September 16, 2022 with the necessary affidavits and attendant privilege logs. Depositions shall begin on October 21, 2022, with the first two depositions being those of Curtis Jackson III and Sebastian Servaire. Consistent with my order, Plaintiff may depose Mitchell Green, as one of the four additional witnesses to be identified but may do so only after taking the deposition of Curtis Jackson III, which shall take place at some point after October 21, 2022 and prior to January 27, 2023. The next status conference will be held, as scheduled, on February 1, 2023, at 4 p.m., to identify further pretrial proceedings, including further depositions necessary and appropriate to the case.

The Clerk of Court shall terminate ECF No. 126.

SO ORDERED.

Dated: August 22, 2022  
New York, New York

/s/ Alvin K. Hellerstein  
ALVIN K. HELLERSTEIN  
United States District Judge